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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/368,828	08/05/1999	ALEXANDER MASHINSKY	9118-037	5985

7590 11/06/2002

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EXAMINER

TIEU, BINH KIEN

ART UNIT PAPER NUMBER

2643

DATE MAILED: 11/06/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/368,828

Applicant(s)

MASHINSKY ET AL.

Examiner

BINH K. TIEU

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on 19 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) 1-27, 38-73 and 75-77 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 1-27 and 38-64 is/are allowed.
- 6) ☐ Claim(s) 65-73 and 75-77 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 65-68 are rejected under 35 U.S.C. 102(e) as being anticipated by Walker et al. (U.S. Pat. #: 6,345,090).

Regarding claim 65, Walker et al. ("Walker '090") teaches a telecommunications sale system comprising:

a plurality of buyers (i.e., those submit conditional purpose officers (CPOs));

a plurality of sellers (i.e., telecommunication carriers);

a network site connected to a server node (i.e., CPO management system 100 as shown in figure 1) for receiving sell and purchase orders (i.e., CPO rules read on seller offers which are

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received and stored in database 700 and CPOs received from buyers and stored in database 400, col.9, line 35 – col.10, line 17) from the seller and buyers, respectively, for telecommunications services, each of said sell and purchase orders specifying a class of service (i.e., maximum price, time limit of call, discounted rate, applicable restrictions, etc., col.11, lines 27-39; col.12, lines 15-24); and

means for matching the sell and purchase orders (i.e., evaluating the CPO against the CPO rules provided by any agency-based carriers, col.10, lines 53-56) and brokering a transaction of telecommunication service, on the basis of at least one of the specified classes of service (i.e., to decide on behalf of an agency-based interexchange carrier to accept or reject a given CPO, col.6, lines 33-42; to determine conditions defined by the calling party being met, col.7, lines 1-14, or to negotiate priorities to each carrier, col.9, lines 54-59, etc.)

Regarding claims 66 and 67, see the local switch operator 150 shown in figure 1 which read on an interconnection node connected to service node (CPO management system 100, col.5, line 51 – col.6, line 10).

Regarding claim 68, note col.5, lines 28-33 and lines 61-66.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 69-72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (U.S. Pat. #: 6,345,090) in view of Walker et al. (U.S. Pat. #: 5,794,207 cited in the previous Office Action).

Regarding claims 69 and 70, Walker '090 discloses all subject matters as claimed above, except for one of the sellers is not a telecommunications carrier and one of the buyers is also not a telecommunications carrier. However, Walker '207 teaches such features in col.19, lines 29-37 wherein the seller and/or buyer is an airline, which is not a telecommunications carrier.

Therefore, it would have been obvious to one of ordinary skill in the art at time the invention was made to incorporate the teachings of features of one of the sellers is not a telecommunications carrier and one of the buyers is also not a telecommunications carrier, as taught by Walker '207, into view of Walker '090 in order to improve the CPO management system 100 accepting CPOs for requests of services which are other than telecommunication services.

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Regarding claim 71, Walker '207 further teaches that when the CPO is received from the user as requested, if the available credit on the buyer's credit card is sufficient, the CPO is approved and a unique tracking number is added to the CPO, col.17, lines 27-51; col.28, lines 5-8. Otherwise, the CPO is rejected and returned to the buyer.

Regarding claim 72, Walker '207 further teaches the limitations of the claims in col.16, lines 46-51.

6. Claims 75-77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (U.S. Pat. #: 6,345,090) in view of Coyle (U.S. Pat. #: 6,269,157 as cited in the previous Office Action).

Regarding claims 75-77, Walker '090 teaches all subject matters as claimed above, except for class of service including levels of quality for each service, etc. assigned by sellers (telecommunications carriers) and requested by buyers. However, Coyle teaches such feature in col.2, line 64 - col.3, line 4; col.7, lines 33-36; col.27, lines 9-20; also see dependent claims 8, 25 and 46 of the Patent.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of the telecommunications service request with specified class of service from buyer and offered from sellers, as taught by Coyle, into view of Walker '090 in order to complete calls to geographic regions with satisfied routing service and to avoid telecommunications traffic congestion at the time.

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*Allowable Subject Matter*

7. Claims 1-27 and 38-64 are allowed.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Binh K. Tieu** whose telephone number is **(703) 305-3963** and E-mail address: **BINH.TIEU@USPTO.GOV.**

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Mr. Curtis Kuntz**, can be reached on **(703) 305-4708** and Customer Service **(703) 306-0377**.

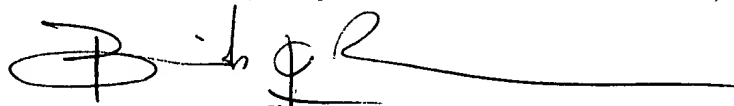
**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

**(703) 872-9314**

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist, tel. No. 703-305-4700).



**BINH TIEU  
PRIMARY EXAMINER**

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**Date: November 02, 2002**